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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR    | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/017,347      | 12/14/2001  | Jonathan William Goodin | 1001.004US2         | 6872             |

7590 11/04/2004

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EXAMINER

WALKE, AMANDA C

ART UNIT PAPER NUMBER

1752

DATE MAILED: 11/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/017,347

Applicant(s)

GOODIN ET AL.

Examiner

Amanda C Walke

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 13-30 is/are rejected.
- 7) ☒ Claim(s) 12, 17-19 and 23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-9 and 13-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Leenders et al (6,383,692).

Leenders et al disclose a flexographic printing plate precursor comprising a transparent support (polyethylene terephthalate; see examples), a photopolymer layer, and a photothermographic recording layer. The photopolymer layer comprises conventional photosensitive compositions known in the art. Examples of such compositions include styrene, methoxystyrene, methyl methacrylate, hydroxystyrene, methacrylic acid, acrylic acid, divinylbenzene, and propyl vinyl ether (column 8, line 19- column 9, line 34). Examples of the film forming binders of then layer include styrene/ butadiene, styrene/ butadiene/ acrylonitrile, and styrene acrylonitrile polymers (column 10, lines 4-45). These components fall within the materials described as being suitable for use in the layer by the instant specification. Also contained in the photopolymer layer is a photoinitiator. The photothermographic layer of the invention comprises organic silver salts such as those of fatty acids (silver laurate, silver behenate) and organic reducing agents for the heat-induced reduction of the organic silver salts (column 3, lines 13-49). The layer may also comprise a film forming binder, a solvent, an IR

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sensitizer (column 5, lines 45-55). The method of preparing the flexographic printing plate includes a step of thermographic imaging employing an infrared laser or a thermal printing head for a time of less than 1.0 ms. The thermographic layer enables a photomask with a transmission optical density of preferably higher than 3.5 (column 8, lines 1-18 and claims 8 and 9).

Following this step, the photopolymer layer is exposed to UV light through the photomask then developed (see examples).

With respect to the limitations regarding the increased density at the wavelengths in the non-infrared radiation employed, the change in oxygen permeability upon exposure to infrared radiation, wherein the layer has sufficient permeability to free radicals or oxygen to enable a reduction of the rate of polymerization of the layer when exposed to standard ambient conditions, given that the material of the reference appears to comprise the same materials and construction as the instantly claimed material, it is the position of the examiner that the material of the reference would inherently possess/ exhibit these properties.

***Allowable Subject Matter***

3. Claims 12, 17-19, and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art of record fail to teach or suggest to one of ordinary skill in the art to prepare the material of the instant claims wherein the thermographic layer comprises 2 layers.

***Response to Arguments***

4. Applicant's arguments filed 8/11/2004 have been fully considered but they are not persuasive.

Applicant has argued that the material of the reference fails to meet the instant claim limitations. Specifically, applicant has argued that there is no evidence on the record that the composition of the reference has any oxygen permeability characteristics. As stated above, the examiner has set forth her reasoning for why the material of Leenders et al meets the instant claim limitations. With respect to the limitations regarding the increased density at the wavelengths in the non-infrared radiation employed, the change in oxygen permeability upon exposure to infrared radiation, wherein the layer has sufficient permeability to free radicals or oxygen to enable a reduction of the rate of polymerization of the layer when exposed to standard ambient conditions, given that the material of the reference appears to comprise the same materials and construction as the instantly claimed material, it is the position of the examiner that the material of the reference would inherently possess/ exhibit these properties. Given that there is no evidence on the record demonstrating that the examiner's position is incorrect and the layers do not inherently possess these properties, the rejection is maintained. Furthermore, as stated in the MPEP 2145, Applicant's arguments do not take the place of evidence, therefore the rejection is maintained.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

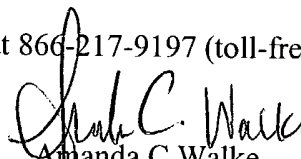
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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amanda C Walke whose telephone number is 571-272-1337. The examiner can normally be reached on M-R 5:30-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia Kelly can be reached on 571-272-1526. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Amanda C Walke  
Examiner  
Art Unit 1752

ACW  
November 1, 2004